

Hand
ORIGINAL

In the United States District Court for the Northern District of Texas
Dallas Division

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILLED

	JUN 2002
CLERK, U.S. DISTRICT COURT	
By _____ Deputy _____	

(USA and)
Jamal Elhaj-Chehade
Co- plaintiff

Vs.

**Educational Commission for Foreign Medical Graduates
Et al entities and individuals) Defendants**

Plaintiff's New response to the defendant's motion for sanction and the plaintiff counterclaims for sanction and other reliefs and request for emergency injunction.

June 26, 2002

Comes now on this date the plaintiff is filing his new response(because it was referred to the Magistrate judge) to the defendants motion for sanction, and the plaintiff is hereby filing his countermotion for sanction and emergency preliminary injunction as follow:

FACTS

- 1- The defendants admitted to the US Government and the public to owe the plaintiff a life-term duty to identify and meet his NEEDS and maximize his benefits (exhibit A attached, and exhibits APP 247, and APP 249). And promote his excellence and advancement and serve his best interests and expand his opportunities etc...
- 2- The plaintiff cannot seek licensure unless the defendants properly and fully identified and met the plaintiff's NEEDS and maximized his benefits first.
Therefore, the defendants are liable for any delay incurred in meeting those needs
- 3- The defendants admitted that the plaintiff can ask the defendants to have his NEEDS identified and met at any time, and irrelevant of any past history.
- 4- The plaintiff never demanded to have his NEEDS identified and met before until and after the order of Jane Boyle in the case 3:99-cv 680-D, and it is the subject of this current lawsuit(all within statute of limitation).
- 5- The plaintiff demanded repetitively from the defendants and their lawyers to have his NEEDS identified and met and his benefits maximized on and before June 22, 2002¹
- 6- The defendants on June 22, 2002 made their answer of their unwillingness to identify and meet the plaintiff needs.

¹ The plaintiff also contacted the defendants attorneys Mark Robert on June 11, 2002 at 1:45 PM and asked him to have his client identify and meet the plaintiff needs before June 22, 2002- so far no response

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- 7- The defendants motion for sanction constitutes an admission by the defendants that the plaintiff does have NEEDS to be identified and met.- and it is the defendants duty to identify them and meet them. Therefore, the defendants are liable for any injury or aggravation done to the plaintiff by any mean(including court orders) while the plaintiff's needs are neglected or not fully identified/met.
- 8- The case 3:01-CV-1301-L is different in content and charges from the case 3:99-CV-680-D. the two cases are independent both in the type of charges and in the times of violations,. The case 3:99-CV-680-D(originally same as 3:98-CV-1622-P)² relates to issues and incidents regarding a validation sticker of the certificate and a job at UTSW parkland hospital in 1997 and all those matters are past and history and they are not a part of the 3:01-Cv-1301-L., While the new case is broader and it is regarding the overall underground and illegal activities of the defendants and concentrates on evidence acquired on June 2001 and some are based upon confessions by the defendants and for new incidents of violations ongoing and repetitive that occurred long after a decision was made in the old case and where the complaint cannot be amended to include the recent discoveries or occurrences. Therefore the case 3:01-CV-1301-L is bigger and broader and with newer recent violations. Accordingly, when the case 3:99_CV-680-D was on appeal as 01-10147. The plaintiff could not amend his complaint as to include other violations, therefore, the new case 3;01-CV-1301-L was necessary.
- 9- the statute of limitation does not apply in this new case, nor resjudicata- because the incidents and the charges are different ones- the defendants claims of resjudicata is not applicable because the analogy is like of a person who previously acquitted for a charge of rape, go to commit more rapes, crimes drug trafficking and being discovered afterward to be a long spy for the enemy—he is prosecutable and resjudicata do not apply because the new case is newer incidents and discoveries and it is broader as to be covered by the old claim. In addition resjudicata aim is to prevent the plaintiff from acquiring more reliefs(from same or different sources) for the same cause of action- therefore resjudicata does not apply here because the plaintiff never acquired any type of relief from any source and because the two actions are different.

² The court, on early January 1999 through bias, refused the plaintiff request to include the ECFMG as co-defendants in the case 3:98-CV-1622-P, the plaintiff brought 3:99-CV-680-D shortly(because of statute of limitation) and demanded expedite proceeding so he will consolidate the cases. But the proceeding did not occur until **nine months** later(making it unprosecutable due to statute of limitation run out by delay), with repetitive questionable changes of judges to cover the traces, and only when the plaintiff consented **under threat and duress** to proceed before a Magistrate judge.-afterward, the plaintiff repetitive attempts to consolidate the matters were unsuccessful- see also writ of certiorari USSP# 00-9148- it is sickening and shameful how judges acted like cheerleaders for the defendants violations of the law while denying the plaintiff any meaningful access to the court.- the court conduct becomes more questionable when the defendants attorney arrogantly admitted April, 11, 2002 at 1:03 PM to the long existing Ex parte communication with the court .and in circumstances where millions of dollars are missing from the defendants income(see plaintiff's motion for summary judgment filed on May 29, 2002)- it is unconceivable.

- 10- The case 3:99-CV-680-D is the same as USCA-5 # 01-10147 and the USSP writ# 00-9148
- 11- Cases are considered valid only when fees are paid or from the time of approval of motion to proceed in forma pauperis. The USDC court delayed the proceeding in the case 3:99-CV-680-D(originally 3:98-Cv-1622-P) for nine months making it useless as outside the statute of limitation. The only savior for its 01-10147 USCA5 appeal is the appeal at USSP writ of certiorari# 00-9148. the writ of certiorari was denied and so the motion to proceed IFP for USCA5#01-10147. therefore the appeal USCA5 never existed being conditionally linked to the decision of USSP.
- 12- In order to reduce cost and increase efficiency and reduce duplicate work and time,The plaintiff is asking the Honorable Magistrate judge to use along this filing the plaintiff motion for summary judgment(with all attachements³, whereby a special copy was designated to Judge Stickney).
- 13- The defendants complaints against the plaintiff is a consequence to their failure to abide by their obligations toward the plaintiff, therefore the plaintiff is filing his counter claims in multiple amount. And the plaintiff is a victim of the defendants violators of the laws. The issues in this litigations are the defendants habitual violations and lack of respect to the US laws and not the plaintiff reaction or behavior. The plaintiff is easy to control once the defendants abide by their obligations to the plaintiff.
- 14- The defendants are liable not only for their improper and inadequate identifying/meeting of the plaintiff's needs, but also for their failure to disseminate to the plaintiff the useful information he needs(exhibit A).
- 15- How can the defendants be able to identify and meet the plaintiff's need while their guns are pointed at the plaintiff?
- 16- The plaintiff in this case is a different person/party/ capacity than in his previous lawsuit, another proof of difference between the now and past suits.
- 17- This case is a civil case, therefore, preponderance of evidence, pattern of conduct of the defendants, and rules and evidence must be used as most favorable to the plaintiff.**
- 18- The court must concentrate upon the real issues and purpose of this litigation and not the victimized plaintiff(habitual violations of the laws by the defendants)**

³ The plaintiff submitted on may 29, 2002 an extra copy to the court specially forwarded to the Magistrate judge with evidence that are highlighted with color marking

Arguments

- 1- The defendants conducts business with every corner in the world, therefore, the statutes and laws and rules most favorable to the plaintiff must be used in this proceeding. **Shruber v. Allis Chalmers corp, 611 F 2d 790 USCA-10 (Kansas) 1979.**
- 2- Jane Boyle judgment on January 4, 2001 was appealed within 30 days to both the USCA5 as 01-10147 and the US Supreme court as 00-9148.- When the USSP denied the writ of certiorari on May 29, 2001, the appeal at USCA5 became a useless and meaningless and unprosecutable(statute of limitation is out) as the last mean to consolidate the matter with UTSW(where evidences exist) is gone.- therefore the plaintiff firmly denies that any of his claim is frivolous- what is frivolous in the matter is the improper due process influenced by the defendants that denied the plaintiff to any meaningful access to justice.- and this court does have a duty to amend or compensate for any injustice past and present to the plaintiff, That is what the plaintiff's hope.
- 3- The plaintiff brought this new case on July 6, 2001 which is a 40 days after the USSP refused the writ of certiorari#00-9148 for the case 3:99-CV-680-D(and appeal USCA5# 01-10147)- therefore any claim regarding rules are not applicable.- **only rules most favorable** to the plaintiff and those **rules that meet the plaintiff's needs** must apply (Shruber vs Allis Chalmers corp et...).
- 4- The purpose of this litigation is to make the defendants comply with the laws and stop their violations and start identifying and meeting the plaintiff's needs- and the defendants maintain a minimal contact with every corner of the world. Therefore ONLY Statutes and rules that meet the plaintiff's need and most favorable to the plaintiff must apply- any rule claimed by the defendants is outside of the applicability and thus rejected.
- 5- The defendants(or their attorneys) lack the judicial and legal power to file any claim against the plaintiff, absent identifying and meeting the plaintiff's NEEDS first. And any defendants' claim is a consequential to their failure to identify and meet the plaintiff's needs. Therefore, the defendants are also responsible and liable for anything that occurs due to or consequent to their failure to identify and meet the plaintiff's needs. And the plaintiff is hereby filing his counterclaims in **treble amount.**
- 6- Any filing by the defendants against the plaintiff constitutes evidences against the defendants because the defendants(and their representatives) do have a duty to maximize the plaintiff's benefits and identify his needs and meet them. Therefore, the defendants motion for sanction(pointing their guns at the plaintiff) is evidence

that the defendants are doing the **OPPOSITE** of identifying and meeting of the plaintiff's needs and much less maximizing them. And the *defendants's motion for sanction* means that they will *continue to violate the US laws and nobody can say a word and they are asking the judge to be their cheerleaders* every time the defendants score big violating the US laws while showing no respect to anyone.

- 7- The defendants admitted of their willingness to maximize the plaintiff's **PAIN** and **suffering**. Therefore the defendants admitted to their violations of the plaintiff NEEDS. Pain and suffering do not constitute a plaintiff's need to be met. Therefore, the defendants are acting outside of their scope of authorities and outside the scope of any decency.
- 8- Any gain done by the defendants, absent meeting the plaintiff needs, constitutes failure to properly identify and meet the plaintiff's NEEDS, for which the defendants are liable and the plaintiff is filing his motion for sanction against the defendants and the plaintiff is demanding an **injunction** (emergency) to end the ongoing violations of the defendants and the plaintiff is demanding an emergency Meeting of his needs by the defendants.
- 9- The plaintiff does not owe the defendants(and their attorneys) anything. It is the plaintiff who is entitled for emergency relief from the defendants.
- 10- The plaintiff asserts that the defendants motion for sanction and relief is improper, absent identification and meeting the plaintiff's needs first. And the plaintiff is demanding extra relief and sanction against the defendants from any filing until they wake up and start doing what they are supposed to do(identify and meet the plaintiff's needs)- the sooner the better.
- 11- The plaintiff is entitled for relief as a **matter of law** and **right** and to **reverse** any damages done by the defendants at the expense of the plaintiff's NEEDS. If the defendants timely start the identification and meeting of the plaintiff's needs, they can reverse all the damages done and it is the court that has the duty to restore and minimize the damages done by having the defendants through injunction to restore what has been lost, minimize the plaintiff's losses and his pain, and maximize his benefits as his legal rights. It is never late to do so.
- 12- Any delay in meeting the plaintiff's need subject the plaintiff to undue burden and stress for which the plaintiff is entitled for all forms of reliefs.
- 13- The court must be made aware that the **defendants admitted to their ongoing** violations and that the court must render its summary judgment to the plaintiff's favor and injunction be imposed against the defendants.

- 14- The plaintiff is entitled to have a meaningful access to the court and justice system. The plaintiff is entitled to **have a life** like the defendants attorneys and the judges have.
- 15- The court do have a duty to **end** the plaintiff's suffering and **limit** his injuries. The evidences are clear against the defendants beyond the reasonable doubt(higher standard than the requirement of this civil case where only preponderence of evidence and evidence must be used into the plaintiff's favor, and the pattern of conduct of the defendants is self explanatory). Assuming the defendants were able to get away and evade justice in their past violations(case 3:99-CV-680-D). this does not cover their after math and ongoing violations for which injunction with severe forms of penalties and damages must be imposed upon the defendants for being a **habitual** violators(3:01-CV-1301-L). the abuse and the **scam** must end NOW.
- 16- The plaintiff is now asking the defendants to identify and meet his now-NEEDS(exhibit A). it is a simple request that the defendants must meet now and fast and the defendants do have obligations to do so. – this case 3:01-CV-1301-L is a now case for ongoing now violations and not for the past violations of the 3:99-CV-680-D.
- 17- The plaintiff is asking for extensive reliefs as to deter the defendants and their attorneys from **their continuous taking advantages and abuse** of the plaintiff NEEDS.- taking advantage of the plaintiff is the opposite of identifying and meeting the plaintiff's need and much less maximizing his benefits or excellence.
- 18- The plaintiff denies all the defendants allegations that his lawsuits are frivolous and he denies any allegation by the defendants that he is disrespectful to the law or he is vexatious litigant. The plaintiff submitted previously in his motions for summary judgment evidences of the allegations and the duty of the defendants toward the plaintiff that must be fulfilled(the plaintiff does **have valid non-frivolous** claims). The plaintiff submitted the evidence for the defendants current violations (theft or disposal or waste or channeling of the plaintiff money benefits that were supposed to be used to meet the plaintiff's needs and maximize his benefits and promote his excellence).- The plaintiff is not the only one who complained from the abuse of the defendants and the case 6:99-1676-24 in USDC Greenville South Carolina is a proof of who is the abuser of the decency of the laws and courts(see exhibits in the plaintiff's motion for summary judgment).
- 19- The plaintiff denies that he brought same lawsuit in two separate cases. The new case has different charges when evidence and violations become available on **June** 2001- long after a decision is rendered by Jane Boyle on January 4, 2001. This 3:01-CV-1301-L has claims never brought before and it is a must because

the plaintiff could not amend a complaint, add new charge to a case already appealed or decided or became outside the statute of limitation(see USSP 00-9148)..It must be understood to the court that the defendants admitted to have a duty to meet the plaintiff NOW NEEDS and maximize his NOW benefits regardless of past history and the defendants are liable because of any delay. The plaintiff is asking for them NOW and urgent and regardless of past history and before June 27, 2002.

- 20- The plaintiff challenges everybody who questions the merit of his lawsuit by having a face-to-face meeting in front of judge and in which all parties present and let the arguments and evidences roll. The plaintiff asserts that it is the defendants who have shown **NO** respect and decency for the US Laws to the point of **arrogance** that the defendants attorney admitted on April 11, 2002 at 1:03 PM to the long existing Ex parte communication between this court and his client, when he said, “... **he does not care what I {the plaintiff} will file,.. everything is already taken care of with the court...**”(this must end and the plaintiff is entitled to have a meaningful access to the court and evidence speaks for themselves).
- 21- All the defendant claims and facts are disputed by the plaintiff and the plaintiff will not engage in word by word argument. And whatever the defendants claims and response or argument may be, it does **NEVER exempt** them from their obligation toward the plaintiff such as to identify his needs and meet them and maximize his benefits and promote his excellence etc... the defendants must stop the talking and start the doing.
- 22- The plaintiff rejects and oppose the defendants attorney claim and his request for monetary damages. The plaintiff asserts that whatever the defendants claims may be, is an aftermath and the consequence of their failure to identify and meet the plaintiff needs for which they are liable ,and the plaintiff is thus filing his *counterclaim* in treble amount--- Furthermore, the defendants attorney admitted that his request for money is based upon his *lack of knowledge*----- The plaintiff is not responsible for the attorney's lack of knowledge or any body's ignorance; in addition, the plaintiff *spoke* with the defendants attorney and the plaintiff was available to answer any inquiries and the plaintiff *did specify* his request to have his NEEDS identified and met and his benefits be maximized.----, **Furthermore**, the plaintiff went to the mediation and presented the parties with evidence, but the defendants have only 100-10, 000 USS in their mind regardless of any other important issues or plaintiff's needs. . In addition, the defendants(and anybody on their part) must identify the plaintiff's NEEDs and meet them and maximize his interests and that the defendants attorney claim constitute an admission for their violation of the plaintiff's Rights.
- 23- The plaintiff firmly denies all the allegations or arguments done by the defendants and the plaintiff affirms that the defendants are trying to drive a wedge between the plaintiff and the court and make this case look like it is between the plaintiff

and the court so as to prevent an injunction to stop their abuse and distract the court so that the defendants can continue running their underground and illegal schemes. The plaintiff asserts that he is not the issue in this legal matter and the plaintiff does respect the laws and love the Constitution. The plaintiff is asking the court to focus its attention on the habits of the defendants in their lack of respect to any laws and in their scam against us all{ millions of dollars in plaintiff and charitable money are missing every year, some as claimed expenses that were never made, other by not reporting them as income, others acquired in violation of the laws etc...). And the plaintiff is willing to abide by all rules of laws but the defendants violations and abuse must stop first because they are also the cause of the plaintiff behavior.

- 24- The plaintiff in this case 3-01-CV 1301-L is a different person than in the old case. By now the plaintiff did acquire 90 credit hours as undergraduate into US Colleges which changes his status and needs and broaden his opportunities. Based upon these new premises, the plaintiff is asking the defendants to identify his needs and meet them and URGENT.
- 25- The defendants claimed that the plaintiff is so and so and so.. therefore they are admitting to that the plaintiff has NEEDS to be identified and met. The plaintiff is asking this court to ask the defendants what they are doing in order to identify and meet these plaintiff's NEEDS?
- 26- The plaintiff asserts that all the defendants attorneys filing constitutes a distraction from the main cause of action: An injunction to stop the defendants continuous violations by stopping the ongoing abuse and make the defendants do what they are supposed to do, and make them stop doing what constitute a violation of the law and obligations.- IT IS THAT SIMPLE. In addition, the defendants motion constitutes a call for the court to violate his constitutional rights.
- 27- The plaintiff asserts that it is the defendants who are the frivolous , fraud, and scam, they deceived and frauded everybody including the plaintiff, the government, and the public.- the plaintiff asserts that it is about time that the courts see the defendants violations.
- 28- The plaintiff asserts that this case 3:01-CV-1301-L has charges never brought before, it include charges for injuries done to the plaintiff as a **provider** of healthcare, as a **consumer**, and as a **public**. And the plaintiff challenges the defendants attorneys to specifically state where these charges have been prosecuted before. It includes deceptive practices, fraud, unjust enrichment and waste of the plaintiff's NEEDS. So where those charges have been prosecuted before.

- 29- The plaintiff asserts that the defendants are responsible and liable. The defendants can limit or reduce their own liability by acting out and fulfilling their obligations, the sooner, the better.
- 30- This case is in IFP, although the plaintiff brought this case on July 6, 2001. the real timing is later when the plaintiff motion to proceed IFP is granted. In addition the plaintiff claim was amended with new claims as they may arise on March 2002. Therefore, any rule does not apply.
- 31- The plaintiff is demanding an **emergency injunction** to stop the ongoing violations of the defendants and to stop the defendants experimentation with the plaintiff- the plaintiff simply wants his NEEDS identified and met. Injunctions for ongoing are not subject to statute of limitations or resjudicata.- the sooner the defendants identify and meet the plaintiff' needs, the better for all parties.
- 32- The plaintiff had set a deadline of June 22, 2002 to have the defendants make their answer. The defendants answer is now clear, evidences speak of judgment into the plaintiff's favor.
- 33- The plaintiff also denies all the defendants allegations, and the plaintiff will not go word by word. The plaintiff asserts that the defendants are solely responsible for the litigations because of their unstoppable and repetitive violations and for making a small matter become big. The plaintiff' litigations will end as soon as the defendants identify and meet all the plaintiff's needs. It is long overdue and it is about time., in addition the plaintiff stands firm with all his filings and claims
- 34- The plaintiff also asks the court to look at the defendants actions and pattern of practice. And to the date of when the violations occurred. And that any defendants claim is counter-claimed by the plaintiff in treble and exponential and expansible amounts.
- 35- The defendant claims are done without identifying and meeting the plaintiff's needs. Therefore and without waiving any right on his part, the plaintiff is filing **his motion to leave to answer out of time until after identifying and meeting** of the plaintiff's Needs(of which the plaintiff's legal needs must be done first – proper identification and meeting of the plaintiff's needs- and to maximize the plaintiff's benefits.

Wherefore premises considered, the plaintiff prays that this court concentrates on the real issues and matters in this litigation(defendants ongoing and repetitive violation of the laws) and renders a judgment into the plaintiff favor with injunction to stop all the abuse and violations by the defendants, and renders to the plaintiff all reliefs requested and non requested because the defendants already admitted arrogantly to their violations. And that an urgent injunction be imposed against the defendants as to stop their abuse and violations of the US Laws. The plaintiff is also asking this court to deny the defendants any request. The

plaintiff is asking the defendants to urgently start identifying and meeting the plaintiff's needs as to bring all these matters to an end.

Certificate of service : this is to certify that a true copy of the foregoing was sent to the defendants attorneys Mark Robert and Susan Schwartz via e-mail as an attachment and via USPS regular mail at their address of record via USPS regular prepaid mail on June 26, 2002 to the address 6688 N Central Expressway# 850, Dallas, Texas 75206-3913. also the plaintiff asserts under penalty of perjury that all statement by the plaintiff or attached exhibits are true and correct to the best of the plaintiff's knowledge. And that a true copy has been forwarded to both honorable judges Lindsey and Stickney.

Attached is a true copy of the defendants statement admitting to the US Government to owe the plaintiff a duty every year to identify his needs and meet them (it is from defendants income tax filing for 1999)

Respectfully submitted
Dr Jamal Elhaj_ chehade, pro-se(tentatively), plaintiff
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FORM 990, PART III - ORGANIZATION'S PRIMARY EXEMPT PURPOSE

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IN RECOGNITION AND FULFILLMENT OF PUBLIC RESPONSIBILITIES FOR THE QUALITY OF HEALTH CARE, ITS DELIVERY AND HEALTH PROFESSIONS EDUCATION, THE SPONSORING ORGANIZATIONS ESTABLISHED THE EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES (ECFMG) TO CONCERN ITSELF WITH INTERNATIONAL MEDICAL EDUCATION AND GRADUATES OF FOREIGN MEDICAL SCHOOLS.

TO MEET ITS RESPONSIBILITIES, ECFMG IDENTIFIES THE FOLLOWING AS ITS AIMS AND MISSION:

- (1) TO PROVIDE INFORMATION TO GRADUATES OF FOREIGN MEDICAL SCHOOLS REGARDING ENTRY INTO GRADUATE MEDICAL EDUCATION & HEALTHCARE SYSTEMS IN THE UNITED STATES;
- (2) TO EVALUATE THE QUALIFICATIONS OF GRADUATES OF FOREIGN MEDICAL SCHOOLS FOR ENTRY INTO GRADUATE MEDICAL EDUCATION & HEALTHCARE SYSTEMS IN THE UNITED STATES;
- (3) TO IDENTIFY THE CULTURAL AND PROFESSIONAL NEEDS OF GRADUATES OF FOREIGN MEDICAL SCHOOLS AND TO ASSIST IN THE ESTABLISHMENT OF EDUCATIONAL POLICIES AND PROGRAMS TO MEET THOSE NEEDS;
- (4) TO PROVIDE INTERNATIONAL ACCESS TO TESTING & EVALUATION PROGRAMS;
- (5) TO GATHER, MAINTAIN, ANALYZE AND DISSEMINATE DATA AND TO CONDUCT RESEARCH STUDIES ON SUCH DATA CONCERNING GRADUATES OF FOREIGN MEDICAL SCHOOLS; AND
- (6) TO ASSIST FOREIGN MEDICAL SCHOOLS AND OTHER INSTITUTIONS AND INTERNATIONAL AGENCIES CONCERNED WITH HEALTH PROFESSIONS EDUCATION THROUGH CONSULTATION AND COOPERATION RELATIVE TO PROGRAM DEVELOPMENT, AND STANDARD SETTING AND EVALUATION.

Exhibit

STATEMENT 3